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Marine Casualty Investigations

Enquêtes sur les accidents maritimes

Investigation Report to the Minister pursuant to sections 542 or 545 of the Canada Shipping Act

Rapport d'investigation au Ministre conformément aux articles 542 ou 545 de la Loi sur la marine marchande du Canada

Canada

Ce rapport est aussi disponible en français

REPORT OF INVESTIGATION INTO THE CIRCUMSTANCES ATTENDING THE COLLISION BETWEEN A FISHING VESSEL WHICH DID NOT IDENTIFY HERSELF AND THE CANADIAN FISHING VESSEL "SERENA J" IN THE NORTH PACIFIC OCEAN, 20 MILES SOUTH OF HESQUIAT PENINSULA, BRITISH COLUMBIA, ON AUGUST 7, 1986.

REPORT No. 502

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REPORT OF INVESTIGATION INTO THE CIRCUMSTANCES ATTENDING THE COLLISION BETWEEN A FISHING VESSEL WHICH DID NOT IDENTIFY HERSELF AND THE CANADIAN FISHING VESSEL "SERENA J" IN THE NORTH PACIFIC OCEAN, 20 MILES SOUTH OF HESQUIAT PENINSULA, BRITISH COLUMBIA, ON AUGUST 7, 1986.

Particulars of Vessel 1

Name	"SERENA J" ex "YASMIN"
CFV Licence Number	26510
MOT Licence Number	13K28996
Licencing Port	Nanaimo, B.C.
Call Sign	VD 8611
Gross Tonnage	9
Net Tonnage	8
Length (Overall)	10.97 m (36 ft)
Breadth	3.23 m (10.6 ft)
Draught (Maximum)	1.37 m (4.5 ft) approx.
Type	Small fishing vessel/troller
Material	Wood
Built	1959, Georgia Boat Works, Steveston, B.C.
Propulsion	GM Diesel, 6 cylinder, Model 4-53, 120 b.h.p., driving a single fixed-pitch propeller.
Cargo	Approximately 158 kg salmon and 3,566 kg (3.5 tons) of ice
Crew	2
Owner	R.F.W. Tiedjins, Nanaimo, B.C.

Navigating Equipment

Radar	Furuno, Model FR-240 Mk II
Echo Sounder	Furuno Recorder, Model F-861 MK II

Loran C	Furuno, LC80
Magentic Compass	Dirigo, 4" diameter
VHF (1)	Hy-Seas, High gain 55
VHF (2)	Apelco, Model AF 40 M
CB	40 Channel
Communications Receiver	Kenwood, Model R2000

Life-saving Equipment

Dinghy	Sport Yak, plastic, 2 m
Lifejackets	3 on board
Lifebuoys	1 on board

Description of Vessel

The "SERENA J" was a small carvel-built wooden fishing vessel of closed construction used for salmon fishing off the west coast of Vancouver Island, B.C. She had a wheel-house/galley, engine-room and accommodation forward of amidships and a fish hold and a small open cockpit space aft of amidships. The underdeck space was divided by three transverse bulkheads. The vessel's deck-house was serviced by one sliding door located on the starboard side of the after bulkhead.

The vessel was fitted with an aluminum mast, outrigger poles and a wooden cargo boom.

Being under 15 gross tons, the "SERENA J" was not required to be inspected by the Ship Safety Branch of the Canadian Coast Guard.

The "SERENA J" was last dry-docked at Newcastle, B.C. in May 1986, and subsequently underwent an inspection for insurance purposes at Nanaimo, B.C. on May 14, 1986, at which time she was described as being in good condition.

Note: 1. All times in this report are expressed in Pacific Daylight Saving Time (UTC minus 7 hours).

2. The more familiar term 'collision' is used throughout this report, whereas one vessel was

moored (anchored) and technically, in Marine Casualty Investigations terminology, such a casualty is known as a 'striking'.

Background

On the morning of August 7, 1986, the small fishing vessel "SERENA J" was at anchor 20 miles south of Hesquiat Peninsula, B.C. awaiting daylight to resume salmon trolling when, in fine and clear weather, she was struck on the port quarter by a vessel which did not identify herself.

The "SERENA J" was damaged on her port side and water gained access to the fish hold. The vessel listed heavily to starboard and subsequently capsized.

The other vessel was reported to have backed away from the "SERENA J" without offering assistance or making any attempt to communicate with the stricken vessel.

The crew of the "SERENA J" were rescued, uninjured, from the hull of the overturned vessel shortly after sunrise. The "SERENA J" was a total loss with a typical resale value in the order of $40,000.

Subsequently charges under the Criminal Code were laid by the RCMP against the skipper of a small Canadian fishing vessel; he was convicted and sentenced to 9 months imprisonment. This conviction is under appeal.

There was no appreciable pollution as a result of this casualty.

Narrative

The "SERENA J" changed owners in February, 1986. The new owner took possession of the vessel in Comox, B.C. and sailed her to Nanaimo where she underwent general maintenance and was fitted out for the upcoming salmon fishing season.

Outfitted and rigged for salmon trolling, the "SERENA J" sailed for Ucluelet, B.C. where she arrived on June 18, 1986. The small troller then fished off the west coast of Vancouver Island using Ucluelet as her main port of call.

On the evening of August 3, the "SERENA J" called in at the fish plant in Zeballos where she unloaded her catch and loaded approximately 3,566 kg (3 1/2 t) of ice in her fish hold. She also loaded provisions, topped up her two 682 L

(150 gal) diesel fuel oil tanks and her fresh water tanks.

At approximately 0800, August 6, the "SERENA J" departed Zeballos with a crew of two on board including the owner/ operator. The vessel proceeded to sea via Nootka Sound and at approximately 1500 that same day, arrived at the fishing grounds some twenty nautical miles west of Estevan Point, Hesquiat Peninsula.

Shortly after arriving at the fishing grounds, the crew of the "SERENA J" rigged their gear overside and commenced trolling for salmon in the vicinity of the 100 m bottom contour. The vessel fished in the same general area as the "PRIDE AND JOY", owned by a relative, and numerous other small vessels that generally fished together as a group.

At about 2030 that same evening, with a catch of approximately fifty salmon on board, the crew of the "SERENA J" hauled their trolling gear inboard and after consulting with the fishing vessel "PRIDE AND JOY" on the VHF radiotelephone, the "SERENA J" proceeded in a SE'ly direction to the next day's fishing area.

The "SERENA J" steered a course that followed the 100 m bottom contour and about midnight, the vessel dropped anchor in 95 m of water, in position 49°11.2'N, 126°26.8'W, as fixed by Loran C. She was brought up with 55 m of 0.95 cm (3/8") anchor chain connected to 73 m of 1.27 cm (1/2") nylon rope in the water.

Once anchored, the "SERENA J" displayed two all-round white lights from the crosstrees, placed approximately 30 cm apart horizontally, one on either side of the keel. The vessel's port and starboard outrigger booms, with roll-dampening stabilizers attached, were left deployed in the outboard position.

With the vessel securely anchored, the deck-hand, having completed his duties, went to his sleeping quarters in the forecastle compartment.

The operator checked the engine oil levels and changed an impeller on the fresh water pump before retiring to the forecastle at about 0100, August 7. Prior to retiring, he switched off all accommodation and deck lights, leaving the two white anchor lights burning on the crosstrees. The engine was shut down and the vessel was on battery power.

Weather conditions as reported by the "SERENA J" were clear with:

Wind	WNW 5 knots
Sea State	Calm
Swell	Slight swell
Visibility	15 nautical miles + in darkness

At approximately 0400, the operator was awakened by the noise of a diesel engine and before he could reach the wheel-house, the "SERENA J" was badly jolted. He started the engine from the wheel-house console and made his way out on deck followed closely by the deck-hand.

The crew of the "SERENA J" arrived on deck and saw an unidentified fishing vessel backing away from them; the vessel was entangled in the port outrigger pole of the "SERENA J" but both vessels then came free. The other vessel was displaying her sidelights.

As the unidentified vessel backed away, the crew of the "SERENA J" hastened to re-secure the port outrigger pole which had been sheared from its bulwark bracket and also to haul the starboard pole inboard; however, this action appeared to increase the starboard list which the vessel had developed. The starboard pole was therefore lowered outboard again and the vessel remained heeled at approximately 10° to 15°. The unidentified vessel disappeared into the darkness without communication.

Also, as a result of the collision, the cannon ball sinker weights, used for trolling, had broken loose from their bulwark stowage bracket and were swinging free. As the operator was re-securing the sinker weights, he heard water entering his vessel. An investigation revealed that the "SERENA J" had sustained a hole on her port side approximately 0.6 metre wide extending from deck level to below the waterline. The hole was located in way of the fish hold aft of amidships and water was flooding the hold; the cockpit space was inspected and found to be dry.

The operator ordered his deck-hand to don his anti-exposure coveralls whilst he himself made his way to the wheel-house. At 0426, August 7, he informed Tofino Coast Guard Radio Station (CGRS) on VHF radiotelephone, channel 16, that his vessel was taking on water; he then went aft to reassess the damage and don his own anti-exposure coveralls.

At 0428, Tofino CGRS informed Rescue Co-ordination Centre (RCC), Victoria, of the incident and broadcast a 'MAYDAY RELAY'.

By 0432, the vessel had listed so badly that the operator informed Tofino CGRS that his vessel was about to

roll over. Without waiting for a reply to his transmission, he evacuated the wheel-house as water was entering through the door at the after end of the cabin.

An unsuccessful attempt was made to free the small plastic dinghy carried on the wheel-house top before both crew members were forced to scramble along the ship's side as it turned over. They eventually clung to a section of the underside of the port bow which remained above the surface. The vessel assumed a capsized position with her stern under water and on small section of the bow above water.

At 0435, RCC Victoria tasked the Tofino Lifeboat and Tofino CGRS re iated the 'MAYDAY RELAY' broadcast not only on the distress frequencies but this time also on VHF channels 6, 21B and 78 to ensure a good response.

Numerous commercial vessels responded to the 'MAYDAY' and were tasked by RCC Victoria along with other primary and multi-tasked search and rescue resources. At 0444, the 442 Transport and Rescue Squadron based at the Canadian Forces Base, Comox, responded and dispatched a Labrador helicopter and a Buffalo aircraft.

At 0502, an Aurora aircraft from 407 Anti-Submarine Warfare Squadron, flying close to the area, proceeded to assist, arriving on scene at 0515. Having sighted the distressed vessel, a smoke float and flare were deployed at 0547 from the aircraft to guide the surface craft to the area where the "SERENA J" lay capsized.

The fishing vessel "OCEAN PROVIDER" reported sighting the survivors on the hull of the overturned vessel at 0552 and at 0600 had the two survivors safely on board; both were cold and wet but suffered no apparent injury.

RCC Victoria stood down all search vessels at 0600 with the exception of the Tofino Lifeboat which arrived on scene at 0655.

At 0658, the survivors from the "SERENA J" were transferred, at their own request, to the vessel "PRIDE AND JOY" and taken to Tofino Harbour.

A Notice to Mariners was issued to warn vessels of the position of the overturned "SERENA J", which still maintained her anchored position.

The Tofino Lifeboat was stood down at 0728.

The RCMP also immediately commenced an investigation to

identify the other vessel involved in the striking of the "SERENA J". In this connection they visited a number of vessels and seized evidence for forensic tests.

The "SERENA J" remained afloat for some days after the collision, however, she dragged her anchor and eventually drifted south into American waters where, with the permission of the owner, the vessel was scuttled. She was not considered salvageable and was a hazard to navigation.

Analysis

1. Time of Collision

The time of the collision, as reported by the crew of the "SERENA J" was estimated, as neither looked at his watch until they were holding onto the hull of the capsized vessel.

The crew estimated that approximately 20 to 30 minutes elapsed from the time of the collision until the vessel capsized. Based on this estimation and the fact that the final VHF broadcast from the "SERENA J" was at 0432 immediately prior to her capsizing, it is most probable that the collision occurred sometime between 0402 and 0412. This may be substantiated by the time taken by the crew to attend to the outrigger poles and cannon-ball weights before transmitting the first distress message at 0426.

2. Sunrise and Twilight

The time of civil twilight at the scene of the casualty was 0528 and sunrise was at 0605. Civil twilight begins or ends when the sun is 6° below the horizon and is a period of incomplete darkness; complete darkness occurs when the sun is 18° below the horizon.

3. General

When both crew members arrived on the deck of the "SERENA J" their estimation of the angle at which the other vessel was backing away varied from 70° to 90° on the port bow and whilst the operator estimated the distance of the other vessel to be between 18 m (60 ft) and 30 m (100 ft) from the "SERENA J", the deck-hand's estimation was 1 m. Following the impact the heading of the "SERENA J" probably would have changed.

On August 8, RCMP divers inspected the damaged area of

the "SERENA J" and confirmed the operator's description of the damage. The nature of the damage tends to indicate an angle of impact of approximately 90°.

4. Weather

The marine forecast for "WEST COAST VANCOUVER ISLAND", South Section, issued by Environment Canada at 2345, August 6, and valid until 2400 August 7, 1986, was as follows:

> Winds north to north-west 5 to 15 knots. Morning fog patches with occasional visibilities near zero. Outlook, Moderate to strong north-westerly winds.

The weather reported by the local light station at Estevan Point at 0500, August 7, 1986 was as follows:

Clear Skies	
Visibility	15 nautical miles
Wind	Northerly, 14 knots
Sea Condition	Unknown
Barometer	1012.4 and steady

It is to be noted that the weather conditions reported in the narrative by the operator of the "SERENA J" were based on his recollection following the casualty and differ from those observed and recorded at Estevan Point light station, which is located some 15 miles away.

5. Current

Based on data collected in 1981, 15 m below chart datum, at position 49°20.1'N, 126°44.3'W, it was calculated that the current at 0400 August 7, 1986, in the vicinity of the collision would have been 0.3 knots in the direction 200°T. As this speed is comparable to the magnitude of currents which may be generated by winds, the confidence in this calculation is low. The currents were almost certainly less than 0.5 knots, but the direction may have been strongly affected by wind-driven flow near the surface. For longer term drift, the direction would likely be toward 320°T.

6. Heading of the "SERENA J"

The operator of the "SERENA J" does not recall in which direction his vessel lay at anchor at the time of the collision; however, it was reported that some of the other vessels anchored in the area were heading NW'ly.

The effect of a surface current of less than half a knot on a vessel of the size and type as the "SERENA J" is considered to be limited and consequently, the prevailing Northerly winds at some speed, between 5 knots (recollected) and 14 knots (recorded at Estevan Point) would have had a greater influence on the vessel's heading.

7. **Pumps**

The "SERENA J" was equipped with two automatic electric bilge pumps; one located in the fish hold and one located in the engine-room. She was also equipped with a 25 mm (1 in) Japsco fire and bilge pump driven off the main engine and a hand pump located on deck.

It was reported that the automatic pump in the fish hold was running but it could not cope with the ingress of water.

8. **Starboard Outrigger Pole**

When the crew of the "SERENA J" hauled the starboard outrigger pole inboard immediately following the striking, they found the vessel was in fact listing more to starboard so they lowered the pole outboard again.

This may be accounted for by the fact that lessening the starboard list submerged a greater part of the damaged area on the port side thereby increasing the rate of ingress of water.

9. **Stability**

The water entering the fish hold initially caused the "SERENA J" to heel over to approximately 10 or 15°, after which, she remained at this angle while the crew attended to the more evident damage on deck.

Water initially entering the fish hold while the vessel was rolled to starboard by the impetus of the collision, would have flowed over the stowed ice and initiated a heel to starboard. However, the free surface effect would be small due to the limiting effects of the shipped penboards in the hold. Since the vessel's transverse bulkheads were not watertight, the flood water would eventually have found its way into the compartments forward and aft of the fish hold and this additional weight would cause the vessel to settle and lose freeboard. As the flooding progressed, the free surface effect and heeling moment would increase and the

vessel continue to heel, lose transverse stability and eventually capsized.

Being preoccupied with an initial assessment of damage around the deck, no one on the "SERENA J" checked the underdeck spaces forward of the fish hold.

10. Warning to Mariners

The thirteenth edition of the Sailing Directions for the British Columbia Coast (South Portion) states in Chapter 10, paragraph 11:

> **Fishing vessels.** - From April 15 to October 31 large numbers of fishing vessels may be encountered inside the 100 m (328 ft) line on La Perouse Bank in the approach to Juan de Fuca Strait. These vessels may be trolling, towing nets, or, particularly at night, they may be at anchor. Because of the prevalence of fog and low visibility in this vicinity vessels approaching the area from any direction are advised to pass to the south and clear of the bank. Vessels obliged to cross the bank should navigate with extreme caution in order to avoid risk of collision with fishing vessels. For further details see Chapter 1, Part A and the Annual Edition of Canadian Notices to Mariners.

The 1986 annual edition of Notices to Mariners, chapter 8, paragraphs 1 and 3 also supply the above information and specifically refer to large numbers of fishing vessels which may be encountered inside the fifty fathom line off Estevan Point. CHS Chart No. LC 3603 also has a caution regarding meeting fishing vessels on La Perouse Bank.

In this case, the "SERENA J" was not on La Perouse Bank, but inside the 100 m line off Estevan Point. The fact remains that a good lookout must be kept and, additionally, if the unidentified fishing vessel was Canadian, she should have been well aware that Canadian fishing vessels anchor at various distances in different areas off the West Coast of Vancouver Island.

11. Vessel Traffic Services (VTS)

VTS Tofino maintains a radar watch over an area of the coastal waters off south west Vancouver Island, with the radar antenna sited on Mount 0ZZARD, and guards VHF R/T channel 74 for this purpose. The scheme is not applicable to vessels under 20 metres and it would be impossible to effectively monitor the many close quarter situations which occur between small fishing vessels. The collision involving the "SERENA J" was not observed.

12. Collision Regulations

See Annex 1 for the full text of the regulations referred to in this section.

(a) Application

Rule 1 states in part that these regulations "...apply to all vessel upon the high seas and in all waters connected therewith ...", and therefore these Regulations applied to both vessels.

(b) Risk of collision

Rule 7 states in part that "Every vessel shall use all available means in the prevailing circumstances and condition to determine if risk of collision exists ....". The fact that the "SERENA J" was at anchor and had displayed her anchor lights and that the other vessel collided with the "SERENA J" at night in good visibility would indicate that the other vessel did not meet the requirements of this Rule.

(c) Responsibility between vessels

Rule 2 states in part that every vessel shall take "any precautions which may be required by the ordinary practice of seamen, ...". In accordance with good seamanship practice, the other vessel, being a power-driven vessel under way, would have been expected to keep clear of the "SERENA J", a vessel at anchor. However, as the other vessel collided with the "SERENA J", it is apparent that she did not fulfil her obligation as required by this rule.

(d) Action to avoid collision

Rule 8 states in part that "Any action taken to

avoid collision shall, ... be positive, made in ample time ....". Similarly Rule 16 states in part that "Every vessel..... shall.... take early and substantial action to keep well clear". The other vessel having collided with the "SERENA J", a vessel at anchor, would indicate that the other vessel also did not meet her obligations under these rules.

(e) Look-Out

Rule 5 states in part that "Every vessel shall at all times maintain a proper look-out by sight and hearing ....". The "SERENA J" was required by the Collision Regulations to maintain a proper look-out but typical of many vessels in the west coast troller fleet, after a long day fishing, no anchor watch was maintained. Consequently, the "SERENA J" did not maintain a proper look-out by sight or hearing, contrary to the requirements of this rule. Taking into consideration that:

- the visibility at the time of collision was good;

- there were no other vessels in the immediate vicinity of the collision which could have interfered with the manoeuvring of the unknown vessel;

- the other vessel was a small fishing vessel and most of them have good manoeuvring characteristics; and

- no substantial positive action was taken by the other vessel and that she collided with the "SERENA J" at almost 90°;

it is apparent that no 'proper look-out' was maintained aboard the other vessel as required by this rule.

(f) Warning signals and signal to attract attention

Rule 36 states in part that "... to attract the attention of another vessel any vessel may make light or sound signals ....". The crew aboard the "SERENA J" was asleep at the time of collision and consequently was not in a position to ascertain whether sufficient action had been taken by the other vessel to avoid collision.

On the other hand, although the collision was imminent, the other vessel also did not use any signal to attract attention as required by this rule.

13. **Anchor Lights**

The "SERENA J", being less than 50 m in length, was required by Rule 30, Anchored Vessels and Vessels Aground, of the Collision Regulations, to exhibit where it can best be seen one all-round white light. (For excerpts of the Regulation see Annex I)

The lights on the "SERENA J" as exhibited from her cross-trees were placed close together and were so arranged that one or the other or both, were visible from any angle of approach; hence, at a distance, the two lights would appear as one. The vessel, therefore, met the intent of the requirements (of the Collision Regulations) respecting anchor lights.

14. **Radar Reflector**

The "SERENA J", being a licenced fishing vessel under 20 m in length and constructed of wood, was required by Rule 40 (Additional Canadian Provisions) of the Collision Regulations to be equipped with a passive radar reflector but she did not carry one on board.

15. **Duty of Masters in Collision**

Section 641 of the Canada Shipping Act requires that in every case of collision, the master or person in charge of a vessel must render all assistance as may be necessary to save lives from any danger caused by the collision and to exchange relevent information such as the name of the vessel, port of registry and names of ports from which she comes and to which she is bound. (This section of the Canada Shipping Act is reproduced in Annex III)

The failure on the part of the other vessel to stop and render assistance after a collision, such as in this case, is considered to be one of the most serious offences a mariner can commit.

Because the crew were preoccupied with damage to their own vessel, no one on board the "SERENA J" attempted to communicate with the other vessel by VHF radiotelephone.

There was, allegedly, no attempt on the part of the other vessel to shout an offer of assistance or to

exchange names and information.

16. **Reporting of a Shipping Casualty**

The *Shipping* Casualties Reporting Regulations made pursuant to section 543 of the Canada Shipping Act, require the immediate reporting by radio of a shipping casualty from ships, followed by the completion of form 1(W.R.)2/(A.R.). (For excerpts of the Regulations see Annex II). The "SERENA J" reported the casualty, the other vessel did not.

17. **Survival/Distress Equipment**

The "SERENA J" complied with the Small Fishing Vessel Inspection Regulations. The performance of the equipment was as follows:

Lifejackets	The vessel carried three life-jackets, however the crew wore their own personal, CCG approved anti-exposure cover-alls (MUSTANG) that proved to be invaluable in keeping them warm as they clung to the hull of the overturned vessel.
Liferaft	None required by regulation, and none carried.
EPIRB	None required by regulation, and none carried.
Immersion suits	None required by regulation, and none carried.
Lifeboat	A two metre dinghy was lashed to the wheel-house top. Due to the sequence of events on board the vessel and the fact that the crew did not realize the seriousness of their situation until too late, there was no time to launch the dinghy.
R/T	The vessel had two R/T's (see equip-ment list). The distress messages were transmitted on VHF channel 16 and were received by Tofino CGRS.

18. **Search and Rescue**

The following units took part in the search and rescue and were tasked by RCC as follows:

0435	CCG "TOFINO LIFEBOAT"
0444	Dept. of Fisheries & Oceans Vessel (DFO) "TANU"
0444	Labrador helicopter "R305" and Buffalo aircraft "R458" from 442 Transport & Rescue Squadron, C.F.B., Comox
0459	CCGC "READY"
0502	Aurora aircraft "117" from 407 Anti-Submarine Warfare Squadron, C.F.B., Comox
0438	F/V "NORCAPE"
0445	F/V "NORDIC SPIRIT"
0500	F/V "OCEANUS"
0523	F/V "SUNBEAM"
0527	F/V "OCEAN PROVIDER"
0529	F/V "DAMSIG"
0531	F/V "SUNFISH"
0539	F/V "MIDNIGHT FLYER"

All search and rescue vessels with the exception of the Tofino Lifeboat were stood down at 0600. The Tofino Lifeboat was stood down at 0728.

19. **Suspect vessel**

The crew of the "SERENA J" described the vessel that collided with them as being a fishing vessel approximately 13 metres (42 ft) in length with an orange or red lead coloured hull, and white house. The vessel's name, in black block lettering on the bow may have started with the letter 'K'. It was also noted that the side lights were right forward and very distinctive.

The RCMP primarily concentrated their investigation on two possible suspect vessels. RCMP divers obtained a piece of the wreckage of the "SERENA J", from the place of impact on the hull, before the vessel was sunk.

Paint chips and wood and fibreglass splinter samples were taken from both possible suspect vessels for forensic testing. As a result of this testing, and additional evidence by the owner/operator of the "SERENA J" to the RCMP charges were laid under Section 236(1)(b) of the Criminal Code; on January 28, 1988 the skipper of a Canadian fishing vessel was found guilty of the offence and sentenced to 9 months imprisonment. This offence conviction is now under appeal.

The suspect vessel involved in the conviction had not shown obvious damage at the time of the investigation, after the collision, but this is not considered significant as, historically, other vessel's bows, known to have been in collision, do not always exhibit such evidence.

The vessel's two-man crew gave evidence that they succesfully fished in the Esperanza area until about 2100, August 6; the vessel was then secured for sea and sailed with her stabilizers out at about 2200, that same night, for Tofino. The deck-hand assumed the conduct from 2200 until 0100, August 7, when the skipper took over. The deck-hand had been instructed to be in 60 to 70 fathoms of water off Estevan Point. Navigation was by radar, LORAN-C, and echo sounder, at a speed of 1700 r.p.m., some 7 knots when loaded. The skipper took over the watch at 0100, August 7 and had the conduct of the vessel throughout. At 0500, the deck-hand turned to, this time to wash down the vessel. Steering was by hand as the autopilot was not working. The vessel reportedly tied up at the local fish company wharf in Tofino at some time shortly after 0800. The vessel denied being involved in the collision.

The attached chartlet gives the suspect vessel's stated track and notes some difference in evidence between the two crew members on board as to the position at the change of watch at approximately 0100, August 17. It was stated that although it would have been normal to proceed to Tofino by way of Father Charles Channel (Wilf Rock), on this voyage the vessel proceeded in through Russell Channel (Whaler Islets); in this latter context it should be noted that the vessel elected to pass south of Tibbs Island (Light-house) rather than take the clear water area to the north of the Island, in her passage into Russell Channel, but the track line was sketched quickly and, it is considered, no significance should be attached to this point. The reason given for taking Russell Channel, as opposed to Father Charles Channel, was because the vessel found herself to the north and east of her intended course as a result of frequent alterations to port because of numerous fishing vessels along the contour lines and along the vessel's own track. It was also suspected that there was set in a Northerly direction. It was also remarked that there were many vessels anchored off Estevan Point. Both crew members confirmed the presence of many fishing vessels in the area during their watches. The wind, as observed from the vessel, was reported as W'ly 15 to 18 knots at 0100, August 17, and that it dropped to light by about 0400.

It should be noted that the Canada Shipping Act, the legislation providing MCI with its investigative authority affords no powers to seize 'objects' or 'things' and, thus, no legal power to take paint samples.

20. **Delay in this Report**

Owing to the unusual circumstances of this investigation, this report has been inordinately delayed due to the Criminal Charges involving identification of the paint chips and the subsequent appeal procedure.

21. **Certification**

The operator of the "SERENA J" did not hold a Certificate of Competency from the Department of Transport nor was he obliged to hold such a certificate to operate the vessel. He has been fishing for thirteen years and has operated small vessels for approximately five years.

The operator of the alleged colliding vessel did not hold a Certificate of Competency from the Department of Transport nor was he obliged to hold such a certificate to operate the vessel. He has been fishing on small fishing vessels since an early age and has been an operator for 5-6 years. He has been operating the vessel since August 1985.

Findings

The "SERENA J" was run down in darkness but otherwise in good weather conditions on August 7, 1986. Her port quarter was holed by a fishing vessel, which did not identify herself, resulting in flooding and an eventual loss of transverse stability which caused the "SERENA J" to capsize. The vessel became a hazard to navigation and was later scuttled.

It would appear that the following factors contributed to the collision:

"VESSEL WHICH FAILED TO IDENTIFY HERSELF"

- being a power-driven vessel under way, did not keep out of the way of the anchored vessel "SERENA J" as required by Rule 2 of the Collision Regulations;

- did not maintain a proper look-out as required by Rule 5 of the Collision Regulations;

- did not use 'all available means' to determine if risk of collision existed as required by Rule 7 of the Collision Regulations;

- did not take any positive action in ample time to avoid a close-quarters situation as required by Rule 8 of the Collision Regulations;

- being a 'give-way' vessel, did not take early and substantial action to avoid collision as required by Rule 16 of the Collision Regulations;

- did not use any 'light and/or sound signals' to warn the "SERENA J" as specified in Rule 36 of the Collision Regulations;

"SERENA J"

- did not maintain an anchor watch as the crew aboard her were asleep at the time of collision; consequently she:

  a) did not maintain a proper look-out as required by Rule 5 of the Collision Regulations;

  b) did not determine if risk of collision existed as required by Rule 7 of the Collision Regulations;

  c) did not sound either the warning signals or use the light and/or sound signals to attract attention of the "OTHER VESSEL"; and

- was not fitted with a radar reflector pursuant to Rule 40 of the Collision Regulations (Additional Canadian Provisions).

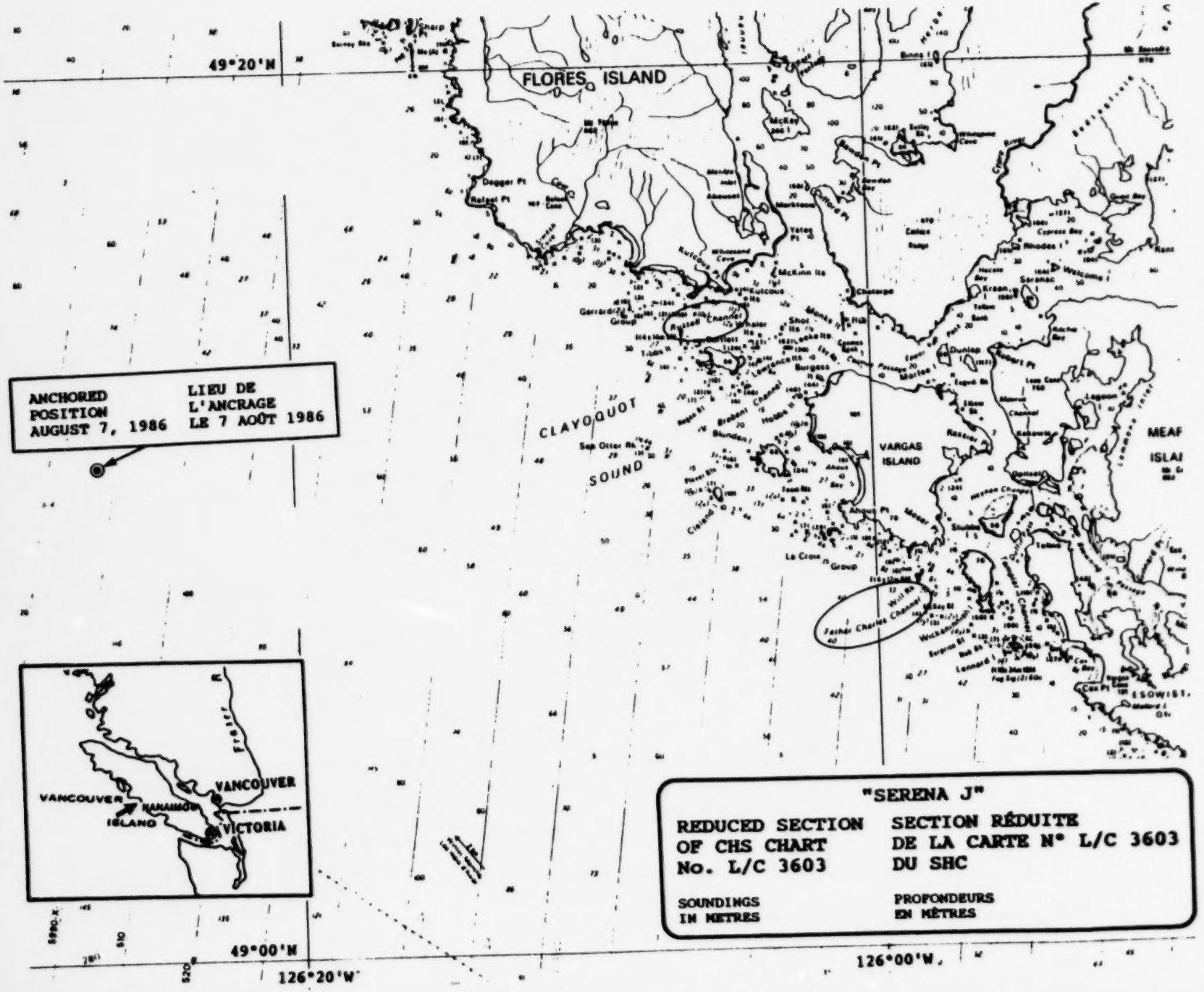
Other Findings

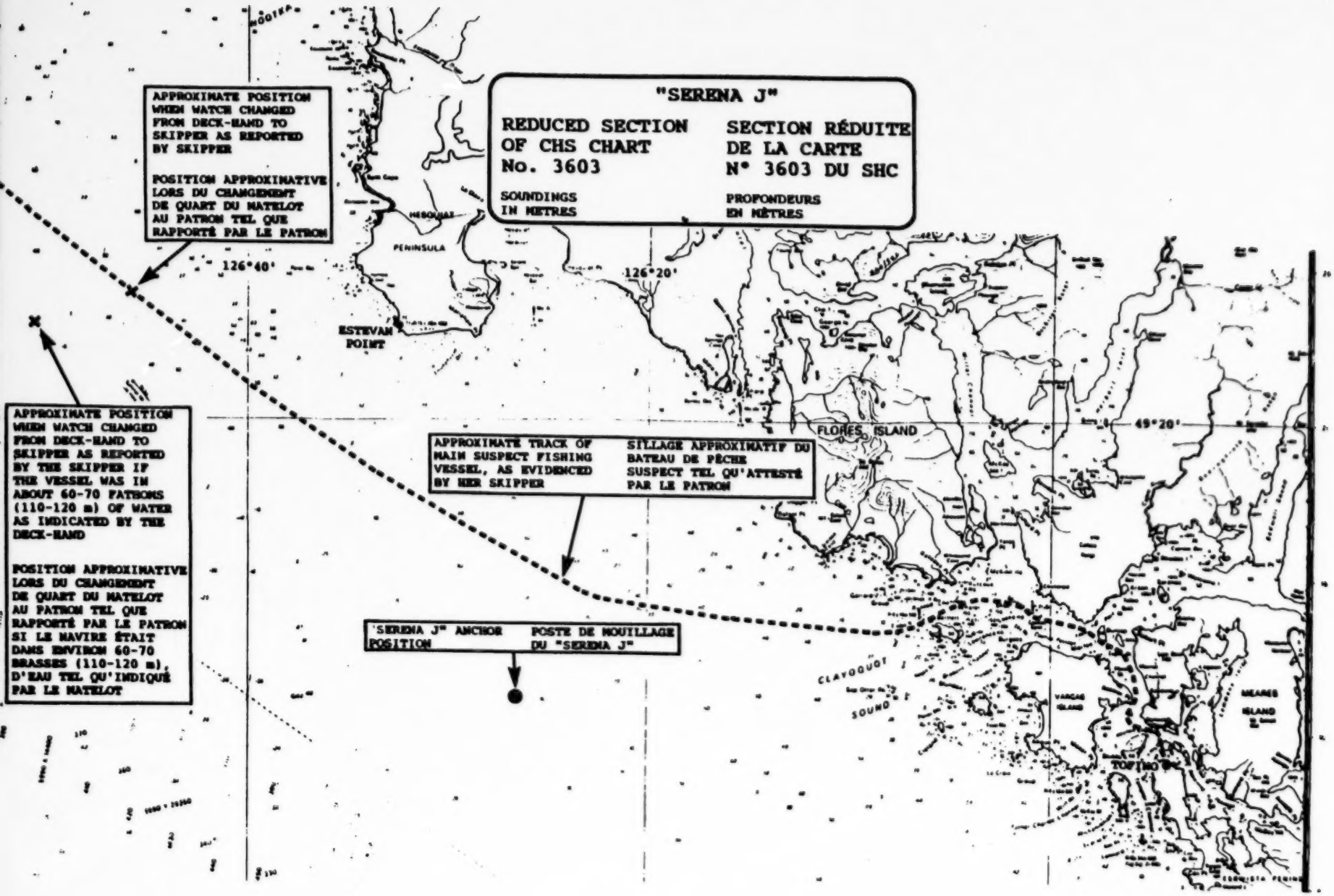
The "OTHER VESSEL" did not comply with chapter S-9, section 641 of the Canada Shipping Act in that no assistance was rendered to the "SERENA J" and in that no attempt was made to communicate with the stricken vessel.

The crew of the "SERENA J", in attending to the more evident damage on deck, failed to observe and appreciate the extent of the overside damage until it was too late to attempt damage control or to make proper use of the vessel's life-saving appliances.

A conviction of a vessel's skipper for offences under the Criminal Code relating to this casualty is under appeal.

OTTAWA, ONTARIO
JUNE 1988.


49°20'N
FLORES ISLAND
ANCHORED POSITION AUGUST 7, 1986
LIEU DE L'ANCRAGE LE 7 AOÛT 1986
CLAYOQUOT SOUND
VARGAS ISLAND
MEAR ISLAND
VANCOUVER
VANCOUVER ISLAND
NANAIMO
VICTORIA
49°00'N
126°20'W
126°00'W
"SERENA J"
REDUCED SECTION OF CHS CHART No. L/C 3603
SECTION RÉDUITE DE LA CARTE N° L/C 3603 DU SHC
SOUNDINGS IN METRES
PROFONDEURS EN MÈTRES


"SERENA J"
REDUCED SECTION OF CHS CHART No. 3603
SECTION RÉDUITE DE LA CARTE N° 3603 DU SHC
SOUNDINGS IN METRES
PROFONDEURS EN MÈTRES
APPROXIMATE POSITION WHEN WATCH CHANGED FROM DECK-HAND TO SKIPPER AS REPORTED BY SKIPPER
POSITION APPROXIMATIVE LORS DU CHANGEMENT DE QUART DU MATELOT AU PATRON TEL QUE RAPPORTÉ PAR LE PATRON
APPROXIMATE POSITION WHEN WATCH CHANGED FROM DECK-HAND TO SKIPPER AS REPORTED BY THE SKIPPER IF THE VESSEL WAS IN ABOUT 60-70 FATHOMS (110-120 m) OF WATER AS INDICATED BY THE DECK-HAND
POSITION APPROXIMATIVE LORS DU CHANGEMENT DE QUART DU MATELOT AU PATRON TEL QUE RAPPORTÉ PAR LE PATRON SI LE NAVIRE ÉTAIT DANS ENVIRON 60-70 BRASSES (110-120 m) D'EAU TEL QU'INDIQUÉ PAR LE MATELOT
APPROXIMATE TRACK OF MAIN SUSPECT FISHING VESSEL, AS EVIDENCED BY HER SKIPPER
SILLAGE APPROXIMATIF DU BATEAU DE PÊCHE SUSPECT TEL QU'ATTESTÉ PAR LE PATRON
"SERENA J" ANCHOR POSITION
POSTE DE MOUILLAGE DU "SERENA J"
126°40'
126°20'
49°20'
ESTEVAN POINT
PENINSULA
FLORES ISLAND
CLAYOQUOT SOUND
VARGAS ISLAND
MEARES ISLAND
TOFINO

ANNEX I

Collision Regulations

March 1983

REGULATIONS FOR THE PREVENTION OF COLLISIONS

Short Title

1. These Regulations may be cited as the *Collision Regulations*.

PART A—GENERAL

RULE 1

Application—International

(*a*) These Rules shall apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels.

(*b*) Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by sea-going vessels if such special rules conform as closely as possible to these Rules.

(*c*) Nothing in these Rules shall interfere with the operation of any special rules made by the government of any state with respect to additional station or signal lights, shapes or whistle signals for ships of war and vessels proceeding under convoy, or with respect to additional station or signal lights or shapes for fishing vessels engaged in fishing as a fleet. These additional station or signal lights, shapes or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light, shape or signal authorized elsewhere under these Rules.

(*d*) Traffic separation schemes may be adopted by the Organization for the purpose of these Rules.

APPENDICE I

Règlement sur les abordages

Mars 1983

RÈGLEMENT POUR PRÉVENIR LES ABORDAGES

Titre abrégé

1. Le présent règlement peut être cité sous le titre: *Règlement sur les abordages*.

PARTIE A—GÉNÉRALITÉS

RÈGLE 1

Application—International

a) Les présentes règles s'appliquent à tous les navires en haute mer et dans toutes les eaux attenantes accessibles aux navires de mer.

b) Aucune disposition des présentes règles ne peut restreindre l'exécution de règles spéciales édictées par une autorité compétente en matière de navigation dans les rades, ports, cours d'eau, lacs ou voies navigables intérieures attenantes à la haute mer et accessibles aux navires de mer, si ces règles spéciales se conforment d'aussi près que possible aux présentes règles.

c) Aucune disposition des présentes règles ne saurait entraver l'application des prescriptions spéciales édictées par le gouvernement d'un État en vue d'augmenter le nombre des feux de position, signaux lumineux, marques ou signaux au sifflet à utiliser par les bâtiments de guerre et les navires en convoi, ou en vue d'augmenter le nombre des feux de position, signaux lumineux ou marques à utiliser par les navires en train de pêcher et constituant une flotille de pêche. Ces feux de position, signaux lumineux, marques ou signaux au sifflet supplémentaires doivent, dans la mesure du possible, être tels qu'il soit impossible de les confondre avec tous autres feux, marques ou signaux autorisés par ailleurs dans les présentes règles.

d) L'Organisation peut adopter des dispositifs de séparation du trafic aux fins des présentes règles.

(*e*) Whenever the Government concerned shall have determined that a vessel of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel, such vessel shall comply with such other provisions in regard to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, as the Government shall have determined to be the closest possible compliance with these Rules in respect of that vessel.

Application—Canadian Modification

(*f*) Where it is necessary to make any determination referred to in paragraph (*e*) in respect of a Canadian vessel, the determination shall be made by the Chairman.

RULE 2

Responsibility

(*a*) Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(*b*) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

e) Toutes les fois qu'un gouvernement considère qu'un navire de construction spéciale ou affecté à des opérations spéciales ne peut se conformer à l'une quelconque des présentes règles en ce qui concerne le nombre, l'emplacement, la portée ou le secteur de visibilité des feux et marques, ainsi que l'implantation et les caractéristiques des dispositifs de signalisation sonore, sans gêner les fonctions spéciales du navire, ce navire doit se conformer à telles autres dispositions relatives au nombre, à l'emplacement, à la portée ou au secteur de visibilité des feux ou marques, ainsi qu'à l'implantation et aux caractéristiques des dispositifs de signalisation sonore, qui de l'avis du gouvernement intéressé, permettent dans ces cas de se conformer d'aussi près que possible aux présentes règles.

Application—Modification canadienne

f) Il incombe au président, lorsqu'il y a lieu, de prendre toute décision visée à l'alinéa *e*) à l'égard d'un navire canadien.

RÈGLE 2

Responsabilité

a) Aucune disposition des présentes règles ne saurait exonérer soit un navire, soit son propriétaire, son capitaine ou son équipage des conséquences d'une négligence quelconque quant à l'application des présentes règles ou quant à toute précaution que commandent l'expérience ordinaire du marin ou les circonstances particulières dans lesquelles se trouve le navire.

b) En interprétant et en appliquant les présentes règles, on doit tenir dûment compte de tous les dangers de la navigation et des risques d'abordage, ainsi que de toutes les circonstances particulières, notamment les limites d'utilisation des navires en cause, qui peuvent obliger à s'écarter des présentes règles pour éviter un danger immédiat.

PART B—STEERING AND SAILING RULES

SECTION I—CONDUCT OF VESSELS IN ANY CONDITION OF VISIBILITY

RULE 5

Look-out

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

PARTIE B—RÈGLES DE BARRE ET DE ROUTE

SECTION I—CONDUITE DES NAVIRES DANS TOUTES LES CONDITIONS DE VISIBILITÉ

RÈGLE 5

Veille

Tout navire doit en permanence assurer une veille visuelle et auditive appropriée, en utilisant également tous les moyens disponibles qui sont adaptés aux circonstances et conditions existantes, de manière à permettre une pleine appréciation de la situation et du risque d'abordage.

RULE 7

Risk of Collision

(*a*) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

(*b*) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.

(*c*) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(*d*) In determining if risk of collision exists the following considerations shall be among those taken into account:

(i) such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change,

(ii) such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

RULE 8

Action to avoid Collision

(*a*) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(*b*) Any alteration of course and/or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course and/or speed should be avoided.

(*c*) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(*d*) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(*e*) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

RÈGLE 7

Risque d'abordage

a) Tout navire doit utiliser tous les moyens disponibles qui sont adaptés aux circonstances et conditions existantes pour déterminer s'il existe un risque d'abordage. S'il y a doute quant au risque d'abordage, on doit considérer que ce risque existe.

b) S'il y a à bord un équipement radar en état de marche, on doit l'utiliser de façon appropriée en recourant, en particulier, au balayage à longue portée afin de déceler à l'avance un risque d'abordage, ainsi qu'au «plotting» radar ou à toute autre observation systématique équivalente des objets détectés.

c) On doit éviter de tirer des conclusions de renseignements insuffisants, notamment de renseignements radar insuffisants.

d) L'évaluation d'un risque d'abordage doit notamment tenir compte des considérations suivantes:

(i) il y a risque d'abordage si le relèvement au compas d'un navire qui s'approche ne change pas de manière appréciable;

(ii) un tel risque peut parfois exister même si l'on observe une variation appréciable du relèvement, particulièrement lorsque l'on s'approche d'un très grand navire, d'un train de remorque ou d'un navire qui est à courte distance.

RÈGLE 8

Manœuvre pour éviter les abordages

a) Toute manœuvre entreprise pour éviter un abordage doit, si les circonstances le permettent, être exécutée franchement, largement à temps et conformément aux bons usages maritimes.

b) Tout changement de cap ou de vitesse, ou des deux à la fois, visant à éviter un abordage doit, si les circonstances le permettent, être assez important pour être immédiatement perçu par tout navire qui l'observe visuellement ou au radar; une succession de changements peu importants de cap ou de vitesse, ou des deux à la fois, est à éviter.

c) Si le navire a suffisamment de place, le changement de cap à lui seul peut être la manœuvre la plus efficace pour éviter de se trouver en situation très rapprochée à condition que cette manœuvre soit faite largement à temps, qu'elle soit franche et qu'elle n'aboutisse pas à une autre situation très rapprochée.

d) Les manœuvres effectuées pour éviter l'abordage avec un autre navire doivent être telles qu'elles permettent de passer à une distance suffisante. L'efficacité des manœuvres doit être attentivement contrôlée jusqu'à ce que l'autre navire soit définitivement paré et clair.

e) Si cela est nécessaire pour éviter un abordage ou pour laisser plus de temps pour apprécier la situation, un navire doit réduire sa vitesse ou casser son erre en arrêtant son appareil propulsif ou en battant en arrière au moyen de cet appareil.

SECTION II—CONDUCT OF VESSELS IN SIGHT OF ONE ANOTHER

RULE 16

Action by Give-way Vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

RULE 30

Anchored Vessels and Vessels Aground—International

(*a*) A vessel at anchor shall exhibit where it can best be seen:

(i) in the fore part, an all-round white light or one ball,

(ii) at or near the stern and at a lower level than the light prescribed in subparagraph (i), an all-round white light.

(*b*) A vessel of less than 50 metres in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (*a*) of this Rule.

(*c*) A vessel at anchor may, and a vessel of 100 metres and more in length shall, also use the available working or equivalent lights to illuminate her decks.

RULE 36

Signals to attract Attention

If necessary to attract the attention of another vessel any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel. Any light to attract the attention of another vessel shall be such that it cannot be mistaken for any aid to navigation. For the purpose of this Rule the use of high intensity intermittant or revolving lights, such as strobe lights, shall be avoided.

RULE 40

Radar Reflectors

*(*a*) Subject to paragraph (*b*), a vessel that is less than 20 metres in length or is constructed primarily of non-metallic materials shall be equipped with a passive radar reflector.

(*b*) Paragraph (*a*) does not apply where

(i) a vessel operates in limited traffic conditions, daylight, and favourable environmental conditions and where compliance is not essential for the safety of the vessel, or

(ii) the small size of the vessel or its operation away from radar navigation makes compliance impracticable.

SECTION II—CONDUITE DES NAVIRES EN VUE LES UNS DES AUTRES

RÈGLE 16

Manœuvre du navire non privilégié

Tout navire qui est tenu de s'écarter de la route d'un autre navire doit, autant que possible, manœuvrer de bonne heure et franchement de manière à s'écarter largement.

RÈGLE 30

Navires au mouillage et navires échoués—International

a) Un navire au mouillage doit montrer à l'endroit le plus visible:

(i) à l'avant, un feu blanc visible sur tout l'horizon ou une boule;

(ii) à l'arrière ou près de l'arrière, plus bas que le feu prescrit à l'alinéa (i), un feu blanc visible sur tout l'horizon.

b) Un navire au mouillage de longueur inférieure à 50 mètres peut montrer, à l'endroit le plus visible, un feu blanc visible sur tout l'horizon, au lieu des feux prescrits au paragraphe *a*) de la présente règle.

c) En outre, un navire au mouillage peut utiliser ses feux de travail disponibles ou des feux équivalents pour illuminer ses ponts. Cette disposition est obligatoire pour les navires de longueur égale ou supérieure à 100 mètres.

RÈGLE 36

Signaux destinés à appeler l'attention

Tout navire peut, s'il juge nécessaire d'appeler l'attention d'un autre navire, émettre des signaux lumineux ou sonores ne pouvant être confondus avec tout autre signal autorisé par l'une quelconque des présentes règles, ou bien orienter le faisceau de son projecteur en direction du danger qui menace un navire de façon telle que ce faisceau ne puisse gêner d'autres navires. Tout feu destiné à attirer l'attention d'un autre navire ne doit pas pouvoir être confondu avec une aide à la navigation. Aux fins de la présente règle, l'emploi de feux intermittents ou tournants à haute intensité, tels que les phares gyroscopiques, doit être évité.

RÈGLE 40

Réflecteurs radar

**a*) Sous réserve de l'alinéa *b*), tout navire d'une longueur inférieure à 20 mètres ou construit principalement de matériaux non métalliques doit être doté d'un réflecteur radar passif.

b) L'alinéa *a*) ne s'applique pas

(i) lorsque le navire est exploité dans des conditions où le trafic est léger, de jour et dans des conditions atmosphériques favorables et qu'il n'est pas nécessaire pour sa sécurité qu'il s'y conforme; ou

(ii) lorsque la petite taille du navire ou que le fait de l'exploiter à l'extérieur des zones où se pratique la navigation au radar font qu'il est impossible de s'y conformer.

ANNEX II

CANADA SHIPPING ACT

Shipping Casualties Reporting Regulations, amendment

1. The definition "Canadian radio ship reporting station" in section 2 of the *Shipping Casualties Reporting Regulations* is revoked and the following substituted therefor:

"'Canadian radio ship reporting station" means a Canadian Coast Guard radio station or a Canadian Vessel Traffic Service Centre of the Department of Transport, a Canadian marine radio station operated by the St. Lawrence Seaway Authority or a Canadian harbour radio station; (*station de radiocommunications maritime canadienne*)."

2. (1) Subsection 4(1) of the said Regulations is revoked and the following substituted therefor:

"(1) Where a ship, or a vessel being towed by a ship, is involved in a shipping casualty, an accident or a dangerous occurrence, the master, any certificated officer, operator, member of the crew, pilot or person responsible for the ship, or the vessel being towed, shall report the incident without delay in accordance with subsections (2) and (3)."

(2) Subsection 4(3) of the said Regulations is revoked and the following substituted therefor:

"(3) Where the report referred to in subsection (1) cannot be communicated by radio from a ship while it is in a Canadian port, the shipping casualty, accident or dangerous occurrence shall be reported by telephone to the local Canadian radio ship reporting station, or to the Canadian Coast Guard Operations Centre of the Department of Transport in Ottawa."

3. (1) Paragraphs 5(1)(*a*) and (*b*) of the said Regulations are revoked and the following substituted therefor:

"(*a*) within 24 hours of the occurrence of the incident or as soon as possible thereafter, make a written report on the incident, including a statement as to its probable cause; and

APPENDICE II

LOI SUR LA MARINE MARCHANDE DU CANADA

Règlement sur les rapports de sinistres maritimes—Modification

1. La définition de «station de radiocommunications maritime canadienne», à l'article 2 du *Règlement sur les rapports de sinistres maritimes*, est abrogée et remplacée par ce qui suit:

« «station de radiocommunications maritime canadienne» Station radio de la Garde côtière canadienne ou centre de Service du trafic maritime du Canada du ministère des Transports, station radio maritime canadienne exploitée par l'Administration de la voie maritime du Saint-Laurent ou station radio d'un port canadien. (*Canadian radio ship reporting station*).»

2. (1) Le paragraphe 4(1) de la version anglaise du même règlement est abrogé et remplacé par ce qui suit:

«(1) Where a ship, or a vessel being towed by a ship, is involved in a shipping casualty, an accident or a dangerous occurrence, the master, any certificated officer, operator, member of the crew, pilot or person responsible for the ship, or the vessel being towed, shall report the incident without delay in accordance with subsections (2) and (3).»

(2) Le paragraphe 4(3) du même règlement est abrogé et remplacé par ce qui suit:

«(3) Dans le cas où le rapport visé au paragraphe (1) ne peut être communiqué par radio à partir d'un navire se trouvant dans un port canadien, le sinistre maritime, l'accident ou l'évènement dangereux doit être signalé par téléphone à une station de radiocommunications maritime canadienne ou au Centre des opérations de la Garde côtière du ministère des Transports à Ottawa.»

3. (1) Les alinéas 5(1)*a*) et *b*) du même règlement sont abrogés et remplacés par ce qui suit:

«*a*) d'une part, rédiger un rapport de l'incident, comprenant une description de ses causes probables, dans les 24 heures suivant le moment où il s'est produit, ou aussitôt que possible;

ANNEX III

APPENDICE III

CANADA SHIPPING ACT

LOI SUR LA MARINE MARCHANDE DU CANADA

Duty of masters in collision

641. (1) In every case of collision between two vessels, it is the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew and passengers, if any,

(*a*) to render to the other vessel, her master, crew and passengers, if any, such assistance as may be practicable, and as may be necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that it has no need of further assistance, and

(*b*) to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which it belongs, and also the names of the ports from which it comes and to which it is bound.

No presumption on failure

(2) Failure of the master or person in charge of a vessel to comply with this section, does not raise any presumption of law that the collision was caused by his wrongful act, neglect or default. R.S., c. 29, s. 651.

Devoir des capitaines en cas d'abordage

641. (1) Dans tout cas d'abordage entre deux bâtiments, le capitaine ou la personne ayant la direction de chaque bâtiment, en tant qu'il ou qu'elle peut le faire sans danger pour son propre bâtiment, son équipage et ses passagers, s'il y en a, a le devoir

a) de prêter à l'autre bâtiment, à son capitaine, à son équipage et à ses passagers, s'il y en a, l'assistance possible et nécessaire pour les sauver de tout danger causé par l'abordage, et de rester auprès de l'autre bâtiment jusqu'à ce qu'il ou qu'elle se soit assuré que celui-ci n'a plus besoin d'assistance ; et

b) de donner au capitaine ou à la personne ayant la direction de l'autre bâtiment le nom de son propre bâtiment et celui de son port d'attache, ainsi que le nom de ses ports de provenance et de destination.

Pas de présomption en cas de défaut

(2) Le défaut, de la part du capitaine ou de la personne ayant la direction d'un bâtiment, de se conformer au présent article, n'entraîne pas de présomption légale d'abordage causé par sa faute, sa négligence ou sa prévarication. S.R., c. 29, art. 651.

F/V "SERENA J"
B/P "SERENA J"